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8 UNITED STATES DISTRICT COURT  
9 WESTERN DISTRICT OF WASHINGTON  
10 AT TACOMA

11 BILLY WAYNE RICHMOND,

12 Petitioner,

13 v.

14 BELINDA STEWARD,

15 Respondent.  
16

Case No. C08-5446RBL

REPORT AND  
RECOMMENDATION

Noted for January 9, 2009

17 The petitioner in this action is seeking federal habeas corpus relief pursuant to 28 U.S.C. § 2254.  
18 This case has been referred to the undersigned Magistrate Judge pursuant to Title 28 U.S.C. §§  
19 636(b)(1)(A) and 636 (b)(1)(B) and Local Magistrates' Rules MJR 3 and MJR 4. After reviewing the  
20 petition and the remaining record, I submit the following report and recommendation.

21 DISCUSSION

22 On July 14, 2008, petitioner filed the instant petition for habeas corpus relief pursuant to 28  
23 U.S.C. § 2254. Subsequently, this court reviewed the petition. The undersigned refused to serve the  
24 petition because it the petition was insufficient and it appeared petitioner had not properly exhausted his  
25 state court remedies. *See* Doc. 7. Specifically, the petition fails to show that the possible issues raised  
26 have been properly presented to the Washington Supreme Court. In its order declining to serve the  
27 petition, the court explained, "State remedies must first be exhausted on all issues raised in a federal  
28 habeas petition. Rose v. Lundy, 455 U.S. 509 (1982); 28 U.S.C. § 2254 (b)-(c)."

1 Plaintiff was provided two opportunities to show cause why the petition should not be dismissed  
2 for failing to exhaust state remedies. Plaintiff was directed to respond by not later than December 5,  
3 2009. The period has expired and petitioner has failed to file a response to the court's orders.

4 CONCLUSION

5 Because petitioner has failed to show cause regarding exhaustion of state remedies, the petition  
6 appears to contain issues which have not been properly presented to the state supreme court. Accordingly,  
7 the Court should dismiss this matter without prejudice.

8 Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil Procedure, the parties  
9 shall have ten (10) days from service of this Report to file written objections. *See also* Fed.R.Civ.P. 6. Failure  
10 to file objections will result in a waiver of those objections for purposes of appeal. Thomas v. Arn, 474 U.S.  
11 140 (1985). Accommodating the time limit imposed by Rule 72(b), the clerk is directed to set the matter for  
12 consideration on **January 9, 2009**, as noted in the caption.

13 DATED this 12<sup>th</sup> day of December 2008.

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15 /s/ J. Kelley Arnold  
16 J. Kelley Arnold  
United States Magistrate Judge  
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